

REMARKS/ARGUMENTS

Claims 19-21 are added based on the broader recitation in claim 16 from which they depend. Claim 18, which depends from claim 16, should be allowable on the record in view of the allowability of claim 15. Claim 21 is similar to claim 10 but leaves out "polyvinyl alcohol."

Claims 8 to 11 are rejected as anticipated by Fidoe et al. Applicants respectfully submit that the requirement of claim 8 is not anticipated by Fidoe et al. The Examiner states that the "form" of the polyvinyl alcohol is not mentioned in claim 8. However, claim 8 requires a mixture of two components. Thus, for a product to fall within the scope of this claim, it must be a product that is a mixture of two or more components together. Further, the mixture in claim 8 requires (I) a phosphorus containing compound selected from the group as set out in claim 8 and (II) at least one water soluble moderator selected from the group as set out in claim 8. Therefore, not only must a phosphorus containing compound (I) and a water soluble moderator

(II) be present, but these compounds must be present in the form of a mixture, i.e. they must be to some extent intermingled, having been mixed together.

Although the product referred to by the Examiner in Fidoe et al comprises THP or THP⁺ salts, which are phosphorus containing compounds (I) in accordance with claim 8, it does not include polyvinyl alcohol (which is a water soluble moderator (II) in accordance with claim 8) as part of the composition. The form in which PVA in Fidoe cannot be part of the mixture that is clearly required by claim 8. In Fidoe et al the polyvinyl alcohol is provided in the form of a bag and the THP, THP⁺ salts are contained within this bag (see page 3, paragraph 4). It is therefore submitted that the THP/THP⁺ salts can in no way be considered to be provided in the form of a mixture with the polyvinyl alcohol. Rather, the mixture components required in claim 8 of the present application are clearly provided as discrete entities in Fidoe and are not in any way intermingled with or dispersed among each other as would be required for the mixture. Withdrawal of the anticipation rejection is therefore respectfully required.

Furthermore, the requirement of the components being a mixture is an important feature giving special properties to the present invention. Thus, this feature relating to the product of claim 8 being a mixture is not insignificant. More specifically, when components are provided in the form of a mixture, as required in claim 8 of the phosphorus containing compound (I) and the at least one water soluble moderator (II), they are intermingled or dispersed, and so interaction between the components is facilitated. As discussed at page 5, penultimate paragraph, chemical interaction between the THP and the polyhydroxy moderators is believed to be involved in the achievement of the beneficial technical effects of the present invention and therefore if interaction between these components is facilitated this would be expected to promote the beneficial effects.

In addition, there is nothing in Fidoe et al that suggests the provision of the polyvinyl alcohol in any form, other than in the form of bags. There is certainly no suggestion or teaching towards the use of the polyvinyl alcohol in the form of a mixture with the THP/THP⁺ salt or that the polyvinyl alcohol is useful other than to contain the product.

Accordingly, the product of the current claim 8 is neither anticipated nor obvious over Fidoe et al by virtue of the features in claim 8 requiring the claimed product to be a mixture.

Furthermore, current claim 8 specifies that the claimed product is for use in tanning leather. Claims 11-15 specify a tanning use. The products referred to in Fidoe et al as being relevant to the novelty of claim 8 (i.e. in a PVA bag) are not in fact described for use in tanning leather nor are they suitable for use in tanning leather. While Fidoe et al acknowledges in the background to the invention that, among other things, THP salts have applications for the treatment of skins during tanning, there is no teaching that the specific products of Fidoe et al when in a PVA bag are for use in such applications. It is quite clear that the THP containing bags of Fidoe et al are for use in controlling bacterial growth in oilfield drilling muds, in pharmaceutical and veterinary applications and for the treatment of gardens and fishponds to control algae or moss; the THP containing bags of Fidoe et al are not at any point described for use in tanning.

A person of ordinary skill in the art would recognize that the specific THP containing bags described in the examples of Fidoe et al would not, in fact, be suitable for such an application for a number of reasons. For example, the bag described contains adipic acid, which would of course affect the pH of the product and this effect would be expected to result in the product being unsuitable for use in tanning. Further, the use of polyvinyl alcohol in the form of a bag, rather than in the form of a mixture with the THP, would make it unsuitable for the tanning application of the present invention as in this form it would not dissolve completely or quickly as would be required to have the desired effect in tanning. In addition, the THP containing bag described in example 2 also includes sodium bicarbonate, and the use of bicarbonate is not appropriate for tanning applications.

Accordingly, Fidoe et al does not disclose products containing a phosphorus containing compound (I) and a water soluble moderator (II) for use in tanning leather, nor would the specific products that are described in Fidoe et al that do comprise these components be suitable for use in such tanning applications. Furthermore, there is no teaching or suggestion in

Fidoe et al that would lead one skilled in the art towards producing products containing both of these components that were suitable for use in tanning leather as he is not provided with any motivation to do this nor any indication as to how this could be achieved.

It is therefore submitted that claims 11-14, as well as claim 8 and claims dependent thereon, are not shown or suggested by Fidoe et al by virtue of the feature relating to the use of the product in tanning leather as well as for other reasons set forth above.

Claims 9, 10 and 15 to 17 each depend directly or indirectly upon claim 8 and therefore these claims are novel and inventive over Fidoe et al for at least the same reasons as claim 8. Likewise, method claims 11 to 14 require the use of the product of claim 8. As discussed in detail above, the product of claim 8 is novel and inventive over Fidoe et al for its use as well as its composition.

Regarding the rejection of claims 12, 13 and 14 as being obvious from a combination of Windus and Fidoe et al, Fidoe et al does not disclose or suggest the product of claim 8 as discussed in detail above. Furthermore, there is nothing in Windus that

Appl. No. 09/980,413
Reply to Office Action of October 17, 2003

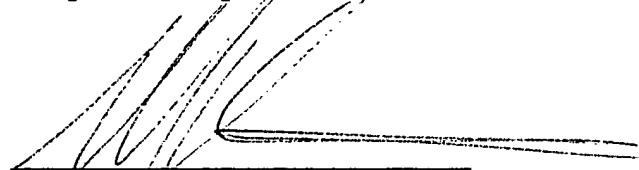
would lead one to modify the product of Fidoe et al so as to arrive at the product of claim 8, let alone to arrive at the specific use of the product of claim 8 as set out in the methods of claims 12, 13 and 14.

New claims 18, 20 and 21 exclude polyvinyl alcohol as a component. Thus, the anticipation rejection does not apply to them. Also, claims 18-21 are not obvious or anticipated for reasons set forth above.

In view of the above, it is submitted that the present invention is not shown or suggested by the cited art. Withdrawal of the rejections and allowance of the application are respectfully requested.

Frishauf, Holtz, Goodman
& Chick, P.C.
767 Third Ave., 25th Floor
New York, NY 10017-2023
Tel. No. (212) 319-4900
Fax No.: (212) 319-5101
MJC/ld

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'MARSHALL J. CHICK', written over a horizontal line.

MARSHALL J. CHICK
Reg. No. 26,853